

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

WSOU INVESTMENTS, LLC D/B/A  
BRAZOS LICENSING AND  
DEVELOPMENT,

Plaintiff,

v.

CISCO SYSTEMS, INC.,

Defendant.

CIVIL ACTION NO. 6:21-CV-00128-ADA

JURY TRIAL DEMANDED

**DECLARATION OF DANIELLE NICHOLSON IN SUPPORT OF BRAZOS’S MOTION  
TO COMPEL PRODUCTION OF SOURCE CODE FROM DEFENDANT CISCO**

I, Danielle Nicholson, hereby declare as follows:

1. I am an attorney in the law firm of Susman Godfrey, LLP. I am counsel for Plaintiff WSOU Investments, LLC d/b/a Brazos Licensing and Development’s (“Brazos”) in this Investigation. I have personal knowledge of the matters set forth herein. If called as a witness, I could and would testify competently thereto.

2. I submit this Declaration in support of Brazos’s Motion to Compel Production of Source Code from Defendant Cisco Systems, Inc. (“Cisco”).

3. On August 18, 2021, Cisco produced over 9,000 documents but no software or source code. I reviewed this document production. 7,840 documents in that production identify “www.cisco.com” as the custodian. Of that portion, thousands are in HTML format.

4. Since August 18, 2021, Cisco has not supplemented this production. Cisco has made productions relating to claim construction and invalidity. But it has not produced any additional documents relating to the technical operation and features of the accused Cisco products.

5. On October 7, 2021, Brazos emailed Cisco regarding its failure to produce source code by the August 18, 2021 deadline and asked Cisco to confirm it would do so by October 15, 2021. Cisco refused, asserting that its August 18, 2021 document production was “more than sufficient to show the operation of the accused products.” Brazos requested a meet and confer, which took place in early November 2021.

6. Because the parties were unable to resolve their dispute, they contacted the Court’s clerk via email on November 16, 2021. In response, the Court granted Brazos leave to file a motion to compel and requested that it distinguish *Drone Tech. Inc. v. Parrot S.A.*, 838 F.3d 1298 (Fed. Cir. 2016).

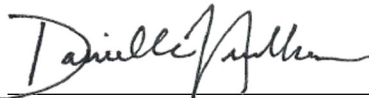
7. On December 20, 2021, Brazos served its first set of document requests (Nos. 1-47) on Cisco. Request No. 1 asked for, among other information, source code. In its response to Request No. 1, Cisco again refused to produce source code. *See* Exhibit A. Other than documents relating to Cisco’s invalidity contentions, Cisco has not made any production (source code or otherwise) in response to Brazos’s December 20, 2021 document requests.

8. I attest that Exhibits A-B attached hereto are true and correct copies of the following:

- a. *Exhibit A* – Excerpt of Defendant Cisco’s Objections and Responses to Plaintiff’s First Set of Requests for Production (Nos. 1-47), dated January 26, 2022.
- b. *Exhibit B* – Declaration of Dr. Paul D. Martin, Ph.D. in Support of Brazos’s Motion to Compel Production of Source Code, dated February 21, 2022.

9. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief.

Executed on this 21st day of February, 2022, in Seattle, Washington.

  
Danielle Nicholson